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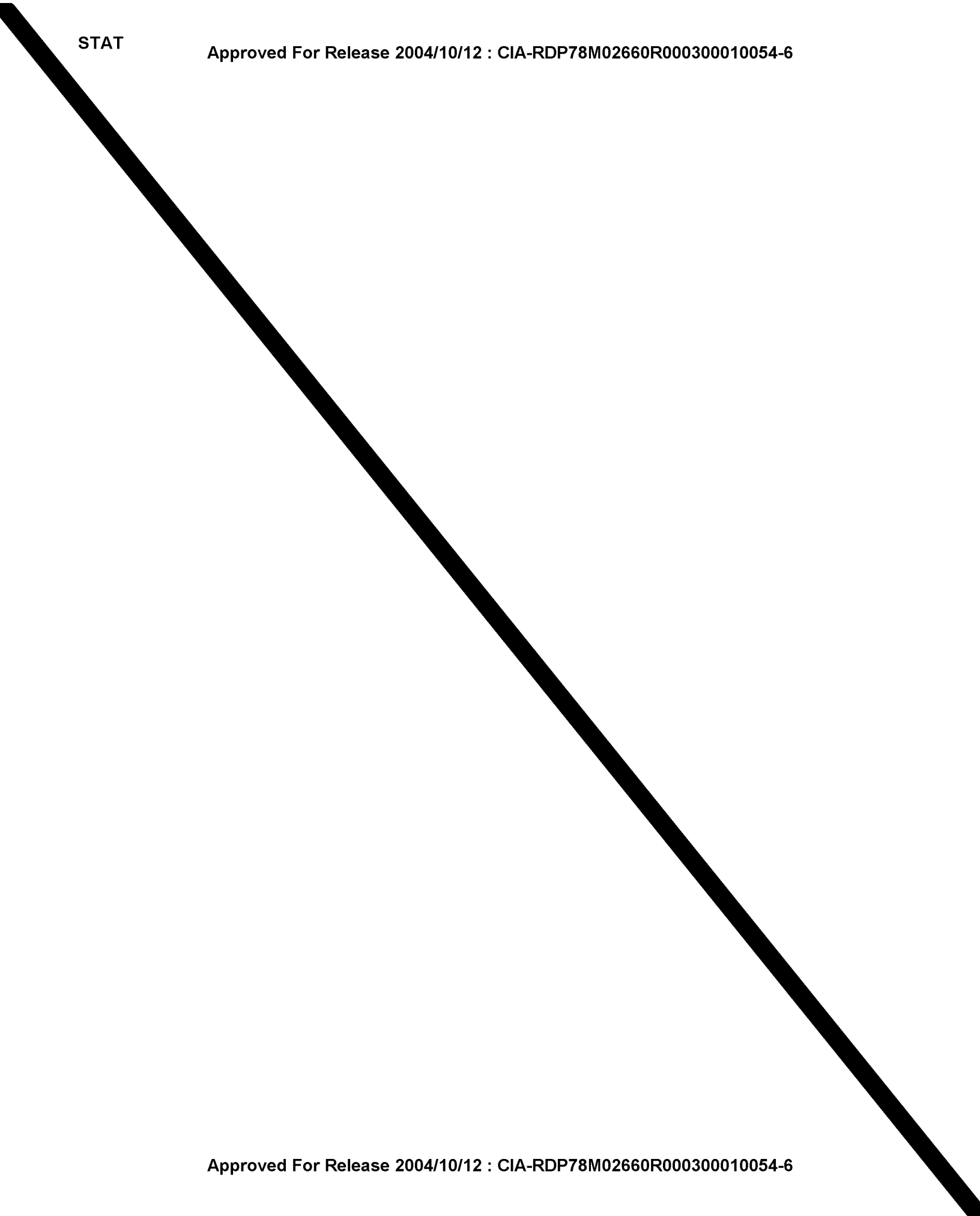

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BELLA S. ABZUG, N.Y., CHAIRWOMAN
LEO J. RYAN, CALIF.
JOHN CONYERS, JR., MICH.
TORBERT H. MACDONALD, MASS.
JOHN E. MOSS, CALIF.
MICHAEL HARRINGTON, MASS.
ANDREW MAGUIRE, N.J.
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SAM STEIGER, ARIZ.
CLARENCE J. BROWN, OHIO
PAUL N. MC CLOSKEY, JR., CALIF.

NINETY-FOURTH CONGRESS

225-3741

Congress of the United States

House of Representatives

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-349-B-C
WASHINGTON, D.C. 20515

Executive Registry
75-1644

September 26, 1975

Mr. W. E. Colby
Director
Central Intelligence Agency
Washington, D.C. 20505

Dear Mr. Colby:

In planning for hearings on proposed legislation to establish a statutory basis in the Freedom of Information Act for the protection of certain information in the interest of national defense, this Subcommittee necessarily must review the practical application of security classification policy currently promulgated in Executive Order 11652.

Accordingly, would you please furnish us information on the matters referred to below. In addition to all other agency information, the questions apply to information revealing intelligence sources and methods since section 9 of Executive Order 11652 requires that any special requirements which are imposed on such information be in conformity with that order.

1) Implementation of Policy. Please identify each office in your agency that is functionally responsible for developing and publishing regulations in implementation of policy in Executive Order 11652 for classifying and declassifying official information.

2) Criteria for Official Information. What is the criteria established by your agency for its use in determining whether an item of information is "official information" and subject to possible classification under Executive Order 1165?? Please include comment especially applicable to intelligence sources and methods.

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3) Criteria for Classifying. Please state the criteria established by your agency for its use in determining:

   a) whether an item of official information other than intelligence sources and methods, requires protection under Executive Order 11652 against unauthorized disclosure in the interest of the national defense of the United States?

   b) whether an item of official information revealing an intelligence source requires protection under 50 U.S.C. 403(d)(3) and Executive Order 11652 against unauthorized disclosure in the interest of the national defense of the United States.

   c) whether an item of official information revealing an intelligence method requires protection under 50 U.S.C. 403(d)(3) and Executive Order 11652 against unauthorized disclosure in the interest of the national defense of the United States.

4) National Defense and Foreign Relations. Section 1 of Executive Order 11652 requires that official information be classified for protection against unauthorized disclosure in the interest of (i) the national defense or (ii) foreign relations of the United States. This Presidential directive shows that "national defense" and "foreign relations" are mutually exclusive alternatives for deciding whether to classify information.

   a) Are there circumstances in which the unauthorized disclosure of information regarding foreign relations of the United States, such as the disruption of foreign relations, could reasonably be expected to cause damage to the national defense?

   b) Could the Central Intelligence Agency perform its functions effectively if your authority to classify information for secrecy should be limited to information requiring protection in the interest of national defense, as was the case under Executive Order 10501?

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5) Authority to Classify. Please state:

a) The number of senior principal deputies and assistants to the Director who currently exercise authority under section 2(A)(2) of Executive Order 11652 to classify information originally as Top Secret.

b) The number of individuals, other than those in major elements of the agency as referred to in c) below, who exercise authority under section 2(B)(2) and (C) of Executive Order 11652 to classify information originally as:

(1) Secret
(2) Confidential

c) The identity of each major element of the agency, as that term is used in section 2(A)(3) of Executive Order 11652, and the number of individuals, if any, in each such major element who currently exercise authority under the Executive Order to classify information originally as:

(1) Top Secret
(2) Secret
(3) Confidential

6) Effect of Limitation on Authority to Classify. According to section 2 of Executive Order 11652, and section I.A. of the National Security Council Directive of May 17, 1972, no person may exercise classification authority except those officials who are designated in the order or are specified in writing pursuant to the order. Section I.B. of the N.S.C. Directive makes clear the fact that whenever a person incorporates into a document an item of information that is already classified, the previously assigned classification shall be reflected on the newly created document together with the identity of the classifier. Please advise whether the agency:

a) Permits any person to exercise classification authority other than the Director and those officials who are specifically designated in writing pursuant to section 2, Executive Order 11652.

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b) Considers this restriction on authority to assign security classifications as being satisfactory for performance of agency functions and responsibility.

7) Classification of Projects.

a) Does the agency permit officials with classifying authority to assign a classification to projects and programs in their entirety, with no distinction between classified and non-classified items, and, if so:

1) How many officials exercise such authority?

2) What are the instructions that apply to proposals for (a) assigning such classifications, and (b) downgrading and declassifying information regarding such projects and programs?

3) How is the assigned classification communicated to individuals whose duties require that they have knowledge of it and who are expected to safeguard the items of information involved?

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8) Compilations of Non-Classified Information. Does the agency permit the placement of a security classification marking on compilations of items of non-classified information, such as a list of non-classified documents or a reproduction of non-classified documents on microfilm, and, if so, what are the instructions for:

a) Assigning such classifications?

b) Cancelling an assigned classification?

9) Special Handling Procedures. Please furnish us:

a) A list of every marking and designator other than Top Secret, Secret and Confidential that the agency uses under section 9, Executive Order 11652, to indicate special access limitations and special handling requirements for classified information, and a statement of the meaning and use of each such marking and indicator.

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b) The number of (1) Members of Congress and (2) the number of Congressional staff employees who are designated to have access to agency information bearing special access restrictions.

10) Accountability Records. Section 6(E) of Executive Order 11652 requires that appropriate accountability records for classified information shall be established and maintained.

a) Please describe the system or systems operated by the agency to account for documents and other items classified

(1) Top Secret
(2) Secret
(3) Confidential

b) Does the agency require that each completed Top Secret, Secret and Confidential document be recorded on the designated accountability record, including documents held by agency contractors, and, if so, is action taken on a continuing basis to assure adherence to the requirement?

c) Does the requirement that accountability records be maintained for classified documents serve to make them quickly available for review when access to them is requested under the Freedom of Information Act?

11) Systematic Review for Declassification. Section 6(G) of Executive Order 11652 requiares that classified information be reviewed on a systematic basis for declassification at the earliest practicable date.

a) Please describe the system or systems operated by the agency for reviewing classified documents and other classified items to determine whether the classification may be cancelled. (This request applies to review of individual items, not to review of regulations or guides for assigning classifications.)

b) In practice, is each classified document held by the agency reviewed specifically for declassification on any established schedule, such as each six months, and, if not, would a requirement for such a review be practicable?

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c) Is each classified document held by agency contractors reviewed specifically for declassification (1) on any established schedule, and (2) at completion of the contract which required use of the document?

d) Is each document with a classification notation reviewed specifically for declassification at the time it is processed out of an office for retirement, and if not, why cannot such a review be made?

e) Please advise us of any special instructions on reviewing intelligence sources and intelligence methods for declassification, including the authorization for declassification.

12) Exemption of Classified Information from General Declassification Schedule. Please state, to the extent practicable, the percentage of agency documents in each classification category that are designated as being exempt from the general declassification schedule in section 5(A), Executive Order 11652.

13) Classified Contracts. Would you please state:

a) Approximately how many of the agency's prime contracts currently in force involve disclosure to the contractor of information classified -

(1) Top Secret
(2) Secret
(3) Confidential

b) Approximately how many agency projects that are currently under contract awarded by some other agency involve disclosure to the contractor of information classified -

(1) Top Secret
(2) Secret
(3) Confidential

c) How many different commercial firms and other non-Federal entities are involved in performance of the agency's classified contracts.

14) Non-Classified Intelligence Sources and Methods. If an item of information revealing an intelligence source or an intelligence method does not qualify for a classification of Confidential or higher under Executive Order

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11652, do you consider that you have responsibility under 50 U.S.C. 403(d)(3) for protecting such information from unauthorized disclosure, and, if so:

a) What is the basis for that belief?

b) What criteria apply in determining the need for protection?

c) What protection system is used?

d) What would constitute an unauthorized disclosure?

15) Referral of Violations to Department of Justice. Please state the number of cases arising in the agency during the preceding two-year period under section 13, Executive Order 11652, involving:

a) An officer or employee being disciplined for the unauthorized disclosure of classified information.

b) The referral to the Department of Justice of a possible violation of criminal statutes regarding unauthorized disclosure of information.

With best regards, I am

Sincerely,

BELLA S. ABZUG
Chairwoman

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